

REMARKS

INTRODUCTION:

As set forth in the preceding section, claims 1, 2, 6, 7, 8, 12, 14, 16 and 22 have been amended to enhance clarity of the claims. Applicant asserts the claim amendments do not narrow the claimed subject matter, but rather, preserve the same scope and breadth of the original claims. Support for the amendments can be found at least at paragraph [0007] of the above-identified application and therefore no new matter has been added.

Claims 1, 2, 5-9, 12-16 and 18-22 are pending in the present application. Claims 1, 8 and 18-21 are independent claims. Reconsideration of the claims in view of the present amendments and the following remarks is respectfully requested.

ALLOWABLE SUBJECT MATTER:

Claims 18-20 are allowed.

REJECTIONS UNDER 35 U.S.C. §112:

Claims 1, 2, 5-7, 9, 12-16 and 22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The rejections are traversed and reconsideration is requested.

The claims have been amended to address the rejections and to clarify the recitations. Accordingly, it is respectfully requested these rejections be withdrawn.

REJECTIONS UNDER 35 USC § 103:

Claims 1, 2, 5-9, 12-16, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0156338 A1 by Kudo et al. ("Kudo"). All rejections are respectfully traversed.

Amended independent claim 1 recites at least the following:

sequentially recording the data in a raw recording mode on the lead-in region, a program region, and a lead-out region of the optical recording medium.

The portions of Kudo cited in the Office Action, taken alone or in combination, fail to suggest or disclose all of the above-recited features.

Kudo is directed to a system adapted to record or "dub" audio data read from a compact disc to a Mini-disc (MD) or a hard disc or to dub audio data recorded in a hard disc to a MD.

The Office Action asserts at page 4, item 15, that Kudo describes all of the above-recited features at pars. [0120], [0124], [0186], [0196] - [0198] and [0210]- [0214]. Applicant respectfully disagrees with this conclusion because none of the cited paragraphs describe "sequentially recording the data in a raw recording mode," as claimed.

For example, par. [0120] of Kudo describes extracting TOC information recorded in the lead-in area of CD 91, but fails to describe all of the above-recited features.

Par. [0124] of Kudo describes reading management information from the CD 91 but does not describe recording data to the CD at all.

Par. [0186] of Kudo describes an ATOC recorded in a "so-called lead-in area," but fails to describe any of a program region or a lead-out region.

Pars. [0196] - [0198] of Kudo describe Sub Q data recorded in a lead-in area, but fails to describe any of a program region or a lead-out region.

Pars. [[0210]- [0214]] of Kudo mention a lead-in region, a program region, and a lead-out region, but do so in a completely different context. For example, par. [0213] describes a program region, and a lead-out region having music tracks and Sub Q data recorded therein. However, none of the cited paragraphs describe "sequentially recording the data in a raw recording mode," as claimed.

In addition, a word search of Kudo reveals that Kudo fails to even mention the term "raw mode or raw recording mode." This is because Kudo is directed towards recording data on a track-by-track basis, rather than in a raw recording mode, as described at pars. [0004] and [0007].

Accordingly, Applicant respectfully asserts that independent claims 1 and 8 patentably distinguish over Kudo, and should be allowable for at least the above-mentioned reasons.

Further, claims 2, 5-7, 9, and 12-16 variously depend from independent claims 1 and 8, and should be allowable for at least the same reasons as claims 1 and 8, as well as for the additional features recited therein.

Independent claim 21 recites at least the following:

building the table of contents information on the optical recording medium using an index value in the interpreted SubQ value of each of the identified blocks.

The portions of Kudo cited in the Office Action, taken alone or in combination, fail to suggest or disclose all of the above-recited features.

The Office Action asserts at page 4, item 15, that Kudo describes all of the above-recited features at pars. [0011], [0012], [0192], [0300] and [0311]. Applicant respectfully disagrees with this conclusion for at least the following reasons.

Par. [0011] of Kudo describes input digital audio data that complies with the CD format and thus includes sub Q data as sub-code data. Par. [0011] further notes that the sub Q data includes a time indicative of a play time of a track. Par. [0011], however, fails to describe all of the above-recited features.

Par. [0012] of Kudo describes an example in which digital audio data have no Subcode data and therefore par. [0012] cannot be relied on to disclose Subcode data as recited in claim 21.

Par. [0192] of Kudo merely notes that FIG. 10B illustrates the construction of a sub Q code of 96 bits. FIG. 10B merely illustrates bit locations of subQ1-Q96 of a sub Q code and consequently the cited portion of Kudo fails to describe all of the above-recited features.

Par. [0300] of Kudo states that "the MD controller 11 generates an HD TOC based on sub Q data synchronous with the PCM signal." Par. [0300], however, fails to describe generating an HD TOC "using an index value in the interpreted SubQ value of each of the identified blocks," as recited in claim 21.

Par. [0311] of Kudo states that "the MD controller 11 generates the HD TOC based on the sub Q data and count in the encode counter, and holds it in the RAM 17." Par. [0311], however, fails to describe generating an HD TOC "using an index value in the interpreted SubQ value of each of the identified blocks," as recited in claim 21. In fact, a word search of Kudo reveals that Kudo fails to even mention the term "index value."

In view of the previous arguments, Applicant asserts that the Office Action fails to specifically set forth where the above-claimed features are disclosed in Kudo. If the rejection is to be maintained, Applicant respectfully requests the Office support the rejection with a specific paragraph number for each of the recited features, or specifically indicate if an assertion of inherency is being relied upon. If an assertion of inherency is being relied upon, Applicant requests the next Office Action provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art" as required by MPEP 2112 IV. Further, the Office Action

should be made **non-final** to give Applicants an opportunity to review the Office's position as to these arguments and to clarify the record for appeal.

Accordingly, Applicant respectfully asserts that the cited portions of Kudo fail to describe all of the above-recited features of claim 21. Since similar features recited by each of the independent claims 1 and 8, with potentially differing scope and breadth, are not suggested or disclosed by Kudo, the rejection should be withdrawn and claims 1 and 8 also allowed.

Further, Applicants respectfully submit that claims 22, 2, 5-7, 9, and 12-16, which variously depend from independent claims 21, 1, and 8, should be allowable for at least the same reasons as claims 21, 1, and 8, as well as for the additional features recited therein.

Dependent claim 7 recites at least the following:

identifying the number of blocks if a 96 byte-Subcode value exists among the record data to be recorded in the lead-in region of the optical recording medium, stored in the buffer;

The portions of Kudo cited in the Office Action, taken alone or in combination, fail to suggest or disclose all of the above-recited features.

Applicant respectfully asserts that the Office Action fails to specifically set forth where the above-claimed features are disclosed in Kudo. If the rejection is to be maintained, Applicant respectfully requests the Office support the rejection with a specific paragraph number for each of the recited features, or specifically indicate if an assertion of inherency is being relied upon.

Applicant traverses the rejection because Kudo fails to describe all of the above-recited features, particularly "building the information" selectively using either an index value in the interpreted SubQ value or an index value in the interpreted Subcode value depending on an identified block type.

Accordingly, Applicant respectfully asserts that the cited portions of Kudo fail to describe all of the above-recited features of dependent claim 7. Since similar features are recited by dependent claims 12 and 22, with potentially differing scope and breadth, the rejection of claims 12 and 22 should be also be withdrawn.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: November 17, 2008

By: 
David J. Cutitta
Registration No. 52,790

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501